



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 28467672

Date: SEP. 25, 2023

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, a financial manager, seeks classification as a member of the professions holding an advanced degree. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Nebraska Service Center denied the petition, concluding that although the Petitioner qualified for classification as a member of the professions holding an advanced degree, he had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act. Next, a petitioner must then demonstrate they merit a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) provides that USCIS may, as matter of discretion,¹ grant a national interest waiver if the petitioner shows:

¹ *See also Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

II. ANALYSIS

The Director concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. Accordingly, the remaining issue to be determined on appeal is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen proposes to undertake. *See Dhanasar*, 26 I&N Dec. at 889. The endeavor’s merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact.

In a professional plan and statement submitted with the petition, the Petitioner stated that he intends to use his “expertise and knowledge in the areas of finance, investment banking, and business by working as a Financial Professional in the United States.” He further stated:

My proposed endeavor in the United States will be to open my own financial consulting company that will provide guidance to companies on financial strategy and business consulting, in order to formulate and implement strategies that increase profitability and boost the U.S. economy.

...

My career plan in the U.S. is to open my own financial consulting firm, focused on providing business consulting and financial strategy services. My consulting firm will help U.S. companies to plan their finances with the most profitable purpose, having a better availability of liquidity, building FP&A models, and creating clear and sustainable growth. Through the company, I will be able to offer my services and those of other professionals in the areas of:

- Company Valuation: The process of applying technical and financial criteria to estimate the economic value, or market value, of a company;
- Business Plan/Model Development: creating short- and medium-term objectives that can serve as a better presentation for potential investors;
- Financial Planning management: Financial Planning is a business management tool that seeks to optimize the company's resources;
- Margin maximization: Through financial management, strategic financial objectives are established to achieve maximum profitability and net profit;
- Cost control and price and definition: From the management of the financial planning to the cost planning and pricing strategy that will allow you to have

the best profitability for the company and that the customer perceives the price as a value;

- Restructuring of liabilities: For companies that are in financial difficulties and need to improve their liquidity through the restructuring of liabilities. This service is based on the creation of a financial model that demonstrates the financial sector with the restructuring of liabilities with the best position for the company to meet its financial commitments.

The Petitioner also claimed in his professional plan that his company expected to hire a total of four employees, and earn a total revenue of \$648,000, by its fifth year of operations. In addition to his professional plan and statement, the Petitioner submitted copies of his academic credentials, an expert opinion letter, letters of recommendation, and industry articles and reports.

The Director issued a request for evidence (RFE), noting that the record as initially constituted was insufficient to demonstrate that the proposed endeavor had national importance. The Director observed that the evidence of record did not establish that the Petitioner's proposed endeavor "would translate into economic benefits for the United States," or that it would have potential prospect impact, significant potential to employ U.S. workers, or other substantial positive economic effects. As a result, the Director requested a detailed description of the Petitioner's proposed endeavor in order to evaluate his request for a national interest waiver under the *Dhanasar* framework.

In response, the Petitioner submitted a definitive statement indicating his intent to work as the CEO and Head of Finance of his U.S. company, [REDACTED] which he claimed will be based in Georgia and Florida and will offer financial advisory services to small and medium-sized businesses. He further stated:

The company will provide financial advisory services to clients, mainly small and medium-sized businesses to boost revenues, maximize profits, and foster growth. The company will offer a set of services that will help companies to have greater scalability and profit generation, thus achieving a relevant position in the market and thriving in a competitive landscape.

To create jobs in a profitable market, the company will hire several U.S. professionals. Through [the company], I will generate both direct and indirect jobs in the U.S., as well as drive revenues nationally. Within the financial sector, the company has a significant capacity to create a range of jobs. In this context, the impact of my proposed endeavor is evident by generating a total of 21 jobs in Year 5.

The company will also help develop the different regions within which the company operates by formulating long-term partnerships with local and regional businesses. By doing so, I will help to stimulate internal and external investment, innovation, and financial growth in the U.S. My business will also contribute greatly to the overall U.S. economy in terms of sales taxes, levied in this case over revenues of \$8 million, and income taxes, estimated at \$590,000 in five years.

The Petitioner also submitted his company's business plan as well as additional recommendation letters, articles, and reports in support of his eligibility for a waiver of the job offer.

In denying the petition, the Director determined that the Petitioner provided insufficient evidence to establish the proposed endeavor's national importance. The Director determined that the Petitioner had not shown that his proposed endeavor had significant potential to employ U.S. workers, would offer substantial positive economic effects for the United States, or that the benefits to the national economy resulting from the proposed endeavor would reach a level contemplated by the *Dhanasar* framework.

On appeal, the Petitioner asserts that USCIS "did not apply the proper standard of proof in this case, instead imposing a stricter standard, and erroneously applied the law to the detriment of the Appellant." The Petitioner also asserts, through counsel, that the Director disregarded the evidence submitted, and provides a brief emphasizing his qualifications as a financial manager and asserting that the evidence of record establishes the national importance of the proposed endeavor.

With respect to the standard of proof in this matter, a petitioner must establish that he meets each eligibility requirement of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-76. In other words, a petitioner must show that what he claims is "more likely than not" or "probably" true. To determine whether a petitioner has met his burden under the preponderance standard, USCIS considers not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989).

Preliminarily, we note that the Director's decision is silent on whether the proposed endeavor has substantial merit. Here, the Petitioner stated his intent to work as a financial manager and provide financial advisory services to small and medium-sized businesses in the United States. The Petitioner also supplemented the record with industry articles and reports pertaining to the value of financial consulting and planning on the U.S. economy. For these reasons, we conclude that the Petitioner's proposed endeavor has substantial merit.

In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We also stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890.

We agree with the Director that the Petitioner has not provided sufficient documentation or explanation concerning how his proposed endeavor has national importance. The Petitioner's business plan explains his intent to start a financial advisory services company in Georgia, expanding to Florida in three years. The business plan states that his new business will benefit the U.S. economy because his services will help companies have greater scalability and profit generation, which will allow them to boost revenues, maximize profits, and foster growth. Further, the business plan projects hiring 21

employees and earning revenue of \$3.3 million in its fifth year of operation, as well as a total of approximately \$3.2 million paid in wages over the course of that time period.

However, the record does not sufficiently detail the basis for the company's financial and staffing projections, or adequately explain how these projections will be realized. The Petitioner also has not provided corroborating evidence, aside from claims in his business plan, that his company's future staffing levels and business activities stand to provide substantial economic benefits to underutilized areas of Georgia and Florida. Even if we were to assume everything the Petitioner claims will happen, the record lacks evidence showing that earning revenue of approximately \$3.3 million, creation of 21 jobs, and paying wages in excess of \$3.2 million by year five rises to the level of national importance.

We further note that the projections contained in the business plan differ from the projections included in the Petitioner's professional plan and statement. Specifically, the Petitioner initially claimed that his proposed endeavor would generate four jobs and revenue of \$648,000 by the end of its fifth year of operations, in contrast to the projections set forth in the business plan. No explanation for the discrepancies in these projections was provided. The Petitioner must resolve these discrepancies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The Petitioner claims on appeal that he demonstrated the national importance of his endeavor through previously submitted documentation of his expertise and experience in recommendation letters from colleagues and clients discussing his work experience and expertise as a financial manager.² However, these documents relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Dhanasar*, 26 I&N Dec. at 890. The issue here is whether the specific endeavor that the Petitioner proposes to undertake has national importance under *Dhanasar*'s first prong. To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of his work. *Id.*

The Petitioner's resume and recommendation letters only address his past accomplishments as a financial manager and do not address the national importance of his endeavor's "potential prospective impact." While we acknowledge that the Petitioner provided valuable financial management services for his employers and clients in the past, the Petitioner has not offered sufficient information and evidence based on these recommendation letters to demonstrate the prospective impact of his proposed endeavor rising to the level of national importance. In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893.

In addition, these letters do not show that the Petitioner's proposed endeavor will substantially benefit U.S. business industries and the field of finance, as contemplated by *Dhanasar*: "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances." *Id.* The evidence does not suggest that the Petitioner's financial management skills differ from or improve upon those already available and in use in the United States.

² While we do not discuss each piece of evidence individually, we have reviewed and considered each one.

The Petitioner also submitted an expert opinion letter from an associate professor of business administration at [redacted] University. But the professor does not base his conclusion on the national importance of the Petitioner's specific endeavor. Although he recites the Petitioner's career history and accomplishments, and praises his success as a financial manager in Colombia, his findings stem from the significance of financial management services in relation to U.S. companies seeking to do business in Latin America. The record, however, does not demonstrate that the Petitioner's proposed endeavor includes collaborative works between U.S. companies and Latin America companies, or that he will actively targeting U.S. companies that do business, or plan to do business in Latin America. As a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we will reject an opinion or give it less weight if it is not in accord with other information in the record or if it is in any way questionable. *Id.* We are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought; the submission of expert opinion letters is not presumptive evidence of eligibility. *Id.* Here, the advisory opinion is of little probative value as it does not meaningfully address the details of the proposed endeavor and why it would have national importance.

The Petitioner further claims national importance of his proposed endeavor based on industry reports and articles describing the valuable role that financial managers play in the success and viability of businesses. The record also includes information on the financial industry in the U.S. as well as the importance of foreign direct investment on U.S. businesses. We recognize the importance of the financial industry and related careers as well as the positive effects foreign investment can have in U.S. businesses. However, merely working in the field of financial management or starting a financial advisory services business is insufficient to establish the national importance of the proposed endeavor. Instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we noted that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890. The industry reports and articles submitted do not discuss any projected U.S. economic impact or job creation specifically attributable to the Petitioner's proposed endeavor. The Petitioner does not demonstrate that his proposed endeavor extends beyond his future clients or employers to impact the field or any other industries or the U.S. economy more broadly at a level commensurate with national importance. The economic benefits that the Petitioner claimed depend on numerous factors and the Petitioner did not offer a sufficiently direct evidentiary tie between his financial management and advisory services and the claimed economic results.

Because the documentation in the record does not sufficiently establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding his eligibility under *Dhanasar's* second and third prongs. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.